

# Notice of Allowability

Application No.

10/646,503

Examiner

Susan T. Tran

Applicant(s)

BARRECA, JACK

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 10/28/04.
2. ☒ The allowed claim(s) is/are 11-22.
3. ☒ The drawings filed on 21 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 9/27, 8/30.
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 10/28/04.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

8-21-03  
4-8-03  
3-31-04  
8-16-04  
4-30-04

THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joseph E. Kovarik on 10/28/04.

The application has been amended as follows:

In the specification:

Please delete the title "FUNCTIONAL GUMS, LOZENGES AND LOLLIPOPS" and insert therefore "CHEWING GUM CONTAINING CALCIUM".

Please replace the full paragraph beginning on page 14 and ending on page 15 with the following rewritten paragraph.

-- The amounts of all or some of these ingredients can vary, preferably being present in an amount between no less than about .05 mg to more than about 30 mg. The size of the gum exterior can be made of a size less than 4.5 grams to more than 18.4 grams with the cavity center being able to accommodate a volume between .5 mg to more than 5 grams. The lollipop can be a total size of less than .65 oz. with the cavity center being a volume of no more than .42 oz. and no less than 4.5 grams, to a size larger than 1.35 oz. with a cavity center being of at least 19 grams. --

In the claims:

Claims 1-10 have been deleted.

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11. (New) A chewing gum consisting essentially of at least one cavity that retains a liquid or semi liquid substance wherein said liquid or semi-liquid substance consists essentially of an active ingredient consisting essentially of calcium and chromium picolinate, said active ingredient present in an amount of at least about .05 mg.

12. (New) The chewing gum of Claim 11 wherein said active ingredient is present in an amount of more than about 30 mg.

13. (New) A chewing gum as set forth in Claim 11, wherein said active ingredient is present in the form of a controlled release formulation.

14. (New) A chewing gum as set forth in Claim 13, wherein said controlled release formulation has desirable solubility and dissolution rates.

15. (New) A chewing gum as set forth in Claim 13, wherein said controlled release formulation comprises time release capsules.

16. (New) A chewing gum as set forth in Claim 11, wherein said active ingredient is present in an amount effective to treat osteoporosis.

17. (New) A chewing gum as set forth in Claim 11, wherein said liquid or semi-liquid substance coacts with components contained in said gum.

18. (New) A chewing gum consisting essentially of at least one cavity that retains a liquid or semi-liquid substance wherein said liquid or semi-liquid substance consists essentially of an active ingredient consisting essentially of calcium, chromium picolinate, and magnesium, said active ingredient present in an amount of at least about .05 mg.

19. (New) A chewing gum consisting essentially of at least one cavity that retains a liquid or semi-liquid substance wherein said liquid or semi-liquid substance consists essentially of an active ingredient consisting essentially of calcium, chromium picolinate, and zinc, said active ingredient present in an amount of at least about .05 mg.

20. (New) A chewing gum consisting essentially of at least one cavity that retains a liquid or semi-liquid substance wherein said liquid or semi-liquid substance consists essentially of an active ingredient consisting essentially of calcium, chromium picolinate, and vitamin B, said active ingredient present in an amount of at least about .05 mg.

21. (New) A chewing gum consisting essentially of at least one cavity that retains a liquid or semi-liquid substance wherein said liquid or semi-liquid substance consists essentially of an active ingredient consisting essentially of calcium, chromium picolinate and at least one component selected from the group consisting of a vitamin, a mineral supplement, guarana, ginseng, green tea, golden seal, ginger, a medicinal component, and lecithin, said active ingredient present in an amount of at least about .05 mg.

22. (New) A chewing gum consisting essentially of at least one cavity that retains a liquid or semi-liquid substance wherein said liquid or semi-liquid substance consists essentially of an active ingredient consisting essentially of calcium, chromium picolinate, and at least one additional component selected from the group consisting of a vitamin, a metabolic enhancer that increases a user's metabolism in order to achieve a higher caloric burn rate, a mineral

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supplement, guarana, ginseng, green tea, gota kola, golden seal, ginger, bee pollen, a medicinal component, nettles, and lecithin, said active ingredient present in an amount of at least about .05 mg.

The following is an examiner's statement of reasons for allowance:

The primary reason for allowance of the claims is the inclusion of calcium and chromium picolinate; and the use of the transitional phase to exclude any other active ingredients. The cited prior art does not teach the chewing gum with the center cavity containing calcium and chromium picolinate as active agents.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claims 11-22 are allowed.

### ***Pertinent Arts***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kiefer et al. is cited as of interest for the teaching of a center-filled chewing gum containing a deliverable form of calcium. A center-filled chewing gum composition having a shell portion and a center-filled portion, the center-filled portion containing an effective amount of a calcium-containing compound suspended

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therein. Kiefer does not teach the center-filled portion containing calcium and chromium picolinate. Furthermore, the filing date of Kiefer is not qualify as prior art.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan T. Tran whose telephone number is (571) 272-0606. The examiner can normally be reached on M-R from 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page, can be reached at (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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